

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Licensure and Certification;
Fellowship Training Permit
(LAC 46:XLV.405 and 411)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et. seq.*, and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285, the Board intends to amend its Rules governing short-term permits to provide for a permit that would accommodate fellowship training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association. The proposed amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§405. Short-Term Residency Permit; Fellowship Training Permit

A. - D. ...

E. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training, at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship training is offered. To qualify for such a permit an applicant:

1. shall:
 - a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and
 - b. possess all of the qualifications for licensing prescribed by §311A.1-6 of these rules;
2. present, or cause to be presented, to the board:
 - a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;
 - b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and
 - c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical educational or training, other than within the

fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285A;
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:1344 (July 2007), amended by the Department of Health, Board of Medical Examiners, LR

§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit; Fellowship Training Permit

A. - K.2....

L. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship is offered. To qualify for such a permit an applicant:

1. shall:
 - a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and
 - b. possess all of the qualifications for licensing prescribed by §323 of these rules;
2. present, or cause to be presented, to the board:
 - a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;
 - b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and
 - c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical education or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training program is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285A;
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009), amended by the Department of Health, Board of Medical Examiners, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 30, 2019 at 11 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Physician Licensure and Certification; Fellowship Training Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication expense totaling \$865 in FY 19-20 for the LA State Board of Medical Examiners (LSBME) to publish the rule changes in the Louisiana Register. Otherwise, the proposed rule changes are not anticipated to result in any additional costs for state or local governmental units.

The proposed rule changes amend the LSBME's administrative rules to provide a fellowship (e.g., post-residency) training permit for training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will increase SGR collections for the LSBME by an indeterminable amount beginning in FY 19 and in subsequent fiscal years. The fee for a temporary permit under the board's current rules is \$100 for initial issuance and \$100 for a one-time, 12-month renewal. The board does not anticipate more than 15-20 total applicants per year for the proposed permit, which will generate an estimated \$1,500 - \$2,000 (15-20 permits * \$100 per permit) annually. However, revenues associated with these permits are indeterminable and dependent upon the number of applicants annually. Furthermore, to the extent permits are renewed, the LSBME may realize an additional \$100 per permit renewal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes benefit physicians by outlining requirements and allowing for training that is not accredited by

the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association. The proposed permit is anticipated to be beneficial to physicians who may receive such training, and the medical institutions that offer such programs, by facilitating medical education, training, and retraining of fellows in emerging medical fields for which there is no current pathway to ACGME, AOA or CODA accreditation. It is also anticipated that the additional training received by such physicians will improve the quality of healthcare delivery in Louisiana.

In order to be eligible for a permit the applicant must have completed an accredited residency training program in the same specialty as the fellowship, possess all qualifications for licensure, submit an application to the board and pay the applicable \$100 permit fee. The permit holder may only practice medicine or receive medical education or training within the training program. The duration of the permit is for 12 months, may be renewed one time with an accompanying fee of \$100, and is subject to revocation for violation of the Medical Practice Act or the LSBME's rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment associated with the proposed rule changes.

Vincent A. Culotta, Jr., M.D.
Executive Director
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Evan Brasseaux
Staff Director
Legislative Fiscal Office